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MANUAL

OF

TRAFFIC EFFICIENCY

By

HARRY ELLWOOD BELLIS

TRAFFIC EXPERT

Pocket Edition

$1.25

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To Stilwell B. Smith and Llewellyn W. Miller, who have courteously contributed of their knowledge and experience, the author extends sincere thanks and appreciation.

PREFACE

The primary purpose of this MANUAL OF TRAFFIC EFFICIENCY is to provide a convenient reference work for Traffic Managers, Freight Agents, Rate Clerks, Billing Clerks, Tariff Clerks and Shipping Clerks. Commerce Attorneys, Students and Businessmen will also find it of inestimable value and benefit.

Traffic men realize to-day that efficiency in the conduct of their departments is only provided and maintained when thoroughly equipped to handle the manifold, complicated details of transportation.

The MANUAL, while containing only the elements governing the fundamental principles of traffic, it nevertheless provides trustworthy clews to the essential features that properly control the assembly and distribution of the products of the World, insofar as brief limitations will permit.

Such information as is contained herein has been compiled and selected with the utmost care and diligence in order that the subjects may be fully understood and the data utilized to the fullest extent and advantage. Illustrations are used whenever of material aid and examples based upon specific facts are freely availed of, as they afford a more comprehensive insight than the use of many words.

FOREWORD

Transportation to-day has assumed the proportions of the complicated sciences and daily becomes more complex with the addition and increase of monotonous detail. Modern industry has gradually become cognizant of this fact, therefore skilled and trained experts consistently have usurped places formerly occupied by shipping clerks.

The advent of the trained traffic man has resulted in the introduction of modern efficiency methods in the promotion of commerce and the establishment of fixed rules and regulations for the systematic assembling of raw materials and the distribution of manufactured or finished products.

Agencies of transportation and commerce conducted periodical, educational campaigns in an effort to determine definite standards for restraining the gross inefficiency of producers, manufacturers and distributors in the preparation of their products and the method of conduct of departments concerned with the distribution of their commodities. The logical result naturally followed. A community of interest was invoked between shipper and carrier. Courteous relationship was established and much of the former prevalent red tape was abolished.

Intelligent traffic men are responsible for this condition of harmony.

Provision for adequate car service; proper rating and routing of shipments; thorough knowledge of the rules, regulations and classifications that govern freight traffic;

secure packing and intelligent marking of packages to be shipped in order to provide safety and to insure reasonably proper delivery; promptness in matters pertaining to claims, tracing cars and lost goods in transit, billing, etc., and familiarity with modern facilities that expedite the handling of freight, constitute merely the primary fundamental factors of traffic efficiency.

The modern, efficient traffic man must be an analyst. He must be constructive. An estimate of his value is best determined by the importance attached to his employer's interest, therefore he must make himself an asset. Occupying a position unique and of unquestioned responsibility he should be animated only by those ideals and principles that actuate co-operative thought and action and so materially appreciate the value and effectiveness of his work. In the development of any fixed policy for systematic and effective workmanship, in order to accomplish the maximum results, the man must be the dominant force.

A very important cog in the wheels of progress is the enlightened traffic man of to-day.

Thorough knowledge of the subject of traffic and transportation is not beyond attainment and herein an attempt has been made to convey the elementary principles that are of exceptional value in a study of the transportation of property, and the preparation of such property in order to insure protection and despatch in transit; likewise to provide a valuable reference work for those identified with commerce and industry.

TRAFFIC

Chapter I

"Traffic," literally, is the transportation of persons and property from one point (place of origin) to another (place of destination).

In the primitive stage man and beast were the principal carriers. The Egyptians, Phoenicians, Grecians and Romans, during the eras of their greatest development, were commercial nations. They carried on a huge commerce with neighboring countries and with the orient, their principal methods of transport being the overland caravan and vessels propelled by sail and oar.

The evolution of traffic from the primeval stage to its present state of development took centuries, its principal progress, however, coming during the nineteenth century, when science and invention had harnessed steam and electricity, applying these invisible forces to vehicle and vessel for the transportation of passengers and property.

The first railroad in the United States was built in 1826. Four years later the Baltimore and Ohio was built, at that time using horses to haul the coaches over its 15 miles of track. At this writing the Baltimore and Ohio is operating approximately 5,000 miles of railway. In 1835 there were less than 1,000 miles of steam railroad, whereas, to-day the single track mileage will exceed 250,000 miles in the United States alone. In addition are

many miles of canals and numerous lake and river lines, besides the coastwise steamship services, all important links in the chain of commerce.

Railroads during the earlier period of their development were handicapped in handling traffic owing to the absence of any fixed standard of track gauge or equipment. This necessitated, very often, breaking of bulk and frequent transfers, thereby causing long delays and considerable damage to goods in transit. This condition, however, has been removed. The dimensions of tunnels, size of cuts, heighth of bridges, etc., though, are a source of vital consideration from a traffic standpoint, uniformity of the physical conditions incident to operation, as yet, not having been established. At times this results in shipments of articles of great bulk being routed in a roundabout manner.

Any estimate of the value and importance of transportation is impossible to calculate. Upon it depends industry and life, the rapid interchange of commodities being a daily necessity. This fact makes imperative, accurate, efficient and expert knowledge and training of every individual identified with the traffic question.

In order to obtain a comprehensive insight into traffic, the factors involved in its various divisions are essential. These divisions will be treated separately.

Interstate.—"Interstate" traffic is the transportation of passengers and property from any State or the District of Columbia to any other State or the District of Colum-

bia; or the transmission of any message (via wire or wireless) under similar circumstances. As an illustration, if a shipment was transported from New York to Chicago, Ill., that would be the transportation of property from one State to another State, therefore, it would become interstate traffic.

Intrastate.—"Intrastate" traffic is the transportation or transmission of passengers, property or messages (via wire) from any point in a State to any other point in the same State, providing such traffic does not pass into or through any other State enroute. In the latter case it would become interstate traffic. For example, if a shipment was transported from Philadelphia, Pa., to Pittsburg, Pa., via the Pennsylvania Railroad, it would be intrastate traffic, as at no place enroute would the shipment pass into or through any other State. However, if a shipment was moved from Philadelphia to Pittsburg via the Baltimore and Ohio Railroad, it would pass through Delaware and Maryland and having passed into another State, it would become interstate traffic.

Interstate or intrastate traffic or transportation of property may also be termed domestic commerce, providing such property is for use or consumption in the United States.

Foreign.—The term "foreign" may be applied to traffic when property is transported between any State or Territory, or the District of Columbia and any foreign country. Export or import are usually used to character-

ize such traffic. For instance, a shipment moving from Boston, Mass., to Liverpool, England, would be foreign or *export* traffic, as the shipment would be carried from this country to a foreign country. On the other hand, a shipment moving from Liverpool to Boston would still be foreign traffic, but would be termed *import*, as in this case the shipment would have been carried from a foreign country to this country.

The above divisions of traffic (interstate, intrastate and foreign) may be sub-divided as follows:

Freight.—"Freight" traffic, defined, is the transportation of property and is the most important character of traffic to be considered. "Property," as interpreted herein, is the article or commodity, technically, the lading, to be transported. The handling in transit, of property, requires many special kinds of equipment in order to insure safety, protection and facility in loading and unloading. A few illustrations of these different types of equipment will suffice. First, the hopper-bottom gondola for transporting coal, then the flat-bottomed gondola for transporting lumber, sand, gravel and similar commodities. The box car or covered type for furniture, automobiles, grain, packing-house products and manufactured articles that are necessary to be protected from inclement weather, pilfering, etc.; the refrigerator car for perishable goods such as fruits and vegetables; the cattle car, equipped with feeding racks and troughs and partially open for ventilation, for shipments of live-stock and the tank car

for carrying petroleum, oils and other liquid commodities that are shipped in bulk.

In addition, many buildings, open and covered platforms, private side tracks, sidings, switching and classification yards, etc., are but a few of the necessary physical requirements that contribute largely to the efficient receiving, handling, transportation and delivery of freight traffic.

Other features relative to freight traffic will be covered under separate heads farther on.

Passenger.—"Passenger" traffic is the transportation of persons, termed passengers or travelers. This character of traffic also requires special types of equipment, in order to insure safety and despatch in transit, as well as buildings, etc., principally for the shelter and convenience of passengers awaiting the arrival or departure of trains.

Express, mail, parcel post matter and baggage are other characters of traffic that are largely a part of passenger train service and that move on passenger train schedule. They, however, will not be considered herein, except with this brief mention.

Freight and passenger traffic may again be divided as follows:

Local.—"Local" traffic is that character of traffic that in its transportation is confined to one line or, that is, from the point of origin to the point of destination, handled by one carrier. To be more definite, traffic that originates, is transported and delivered, without passing

out of the hands of or the control of a single agency, is local. For example, a shipment delivered to the Union Pacific Railroad, at Omaha, Neb., that is transported over the line of the Union Pacific Railroad, and delivered by the Union Pacific Railroad to the consignee at Ogden, Utah, would be termed local traffic, as all services incident to the movement of this shipment would be performed by one line.

Through.—"Through" traffic, characterized, is traffic that in its movement is transported, wholly or partly, over the lines of two or more carriers, providing such traffic moves on a through bill of lading (See chapter on Bill of Lading). As an illustration, take a shipment moving from Atlanta, Ga., via the Southern Railway and the Florida East Coast Railway to Miami, Fla. The fact of this shipment having moved over two lines would make it through traffic, that is, if the shipment were moved on a through bill of lading.

Traffic may be moved in numerous ways, the most important of which are the steam or electric railroad, the ocean, river or lake steamship services, the canal services and more recently the auto-truck, the latter being utilized for some classes of traffic, particularly household goods, for short hauls. Any of these various methods of transportation are possible of employment in conjunction, one with the other, and all contribute to traffic in persons or property or both. These separate services, however, will be more fully considered later. (See chapter on Routing.)

The two principal divisions of traffic that remain to

be mentioned are concerned only with the transportation of property and are as follows:

Commodity.—"Commodity" traffic is a term, technically, that is applied to articles or commodities, which, as a general rule are handled in bulk, though the term in all probability is more generally associated with traffic that is moved under specific rates. Coal, coke, ore, lumber, grain, flour, cotton, tobacco, oil, live-stock, sugar, cement and articles of iron and steel manufacture are some of the most important of these.

Class.—"Class" traffic is applied to such articles as are grouped in definite or fixed classes and transported subject to rates that govern the respective classes or groups, according to their value from a traffic standpoint. The value of the article, bulk, liability to damage and necessity for special shipping facilities, constitute a few of the elements entering into their value as traffic. Dry-goods, clothing, shoes and other articles of merchandise are a few of the articles that are classified or grouped. In addition, practically all traffic that is shipped in less than carload quantities is classified.

Commodity traffic, insofar as rates are concerned, takes precedence over class traffic, as a commodity rate will remove the application of a class rate, but with rare exceptions, commodity traffic is secondary from the transportation standpoint.

Under the chapters on Classification and Rates the above divisions (Commodity and Class) of traffic are reviewed more fully.

FREIGHT CLASSIFICATION

Chapter II

As stated in the previous chapter, freight traffic is composed of two distinct divisions, commodity and class. Equally distinct are the methods of preparing tariffs indicating rates that govern the movement of the respective divisions of traffic. In commodity tariffs rates are indicated for specific commodities. In class tariffs rates are assigned to groups or classes of commodities, the group or class being shown by number or letter. Commodity tariffs generally remove the application of class tariffs and are usually applied with the intention of giving lower rates to commodities that move in considerable volume, or for the purpose of developing a particular traffic.

An article may be governed by a commodity tariff in one rate territory and by a class tariff in another or number of others. This is not an unusual condition in modern rate construction. Class tariffs are published separate from classifications, the title page of the tariffs, as a general rule, indicating the classification that governs. Frequently, two or more classifications will govern a rate and probably, just as frequently, will one classification govern through rates between points in one classification territory and those in another. For example, a shipment

moving from Buffalo, N. Y., to Des Moines, Iowa, would be subject to two classifications, whereas, a shipment moving from Albany, N. Y., to Sacramento, California, would be subject to but one.

The assignment of commodities to groups or classes, for transportation rate purposes, may be termed freight classification practice and the principles involved, that bear an intimate relation to this practice, are of considerable importance to every traffic man. Ability to ascertain the proper classification for a particular commodity, or to apply a definite rule, merely indicates familiarity, but a competent knowledge of freight classification practice and a thorough understanding of its theoretical principles, facilitate the attainment of efficiency. Among the more important considerations, upon which are based the assignment of commodities to groups or classes, are the following:

Liability to Damage.—Commodities that in their handling are liable to be broken, indented, scratched, damaged by water, oil or other liquids, or torn or punctured by hooks, nails or other projections, are usually grouped to bear rates proportionate with such liability.

Value of the Commodity.—The value of a commodity is important as the carrier must assume the full extent of liability for lost or damaged shipments, except as otherwise provided in Section I of the carriers bill of lading (see chapter on Bill of Lading). Therefore, com-

modities of value are grouped so as to move under inordinately higher rates than those of lesser value.

Bulk and Weight.—The bulk and weight of commodities are important considerations, as they bear directly upon the revenue and loading capacity of the equipment furnished for their transportation. Light and bulky commodities require more space, therefore, should bear relatively higher rates than those that enable equal or greater weight to be concentrated into a smaller space.

Quantity of a Shipment.—The quantity of a shipment very often determines the classification of a commodity, as a large percentage of the commodities, subject to classification, are given lower ratings upon carload quantities than upon the less than carload. Quantities that determine a carload are governed by the application of a minimum weight rule, based on the loading capacity of the commodity into a single car. Variations in size and character of cars are often a factor in applying minimum weights.

Preparation and Packing of Shipments.—The manner of preparation for shipment or the character of packing are important factors in their relation to the classification, particularly upon commodities that are shipped in less than carload quantities. Current practice provides definite rules that regulate the method of containment and the mode of packing. Safe containers and concentrated packing reflect themselves in the carrier's revenue and increase the loading capacity of their equipment, whereas,

a shipper ofttimes secures the advantage of a lower rating and avoids needless loss, damage or delay of his property.

Liability to loss, facility of handling, necessity for special facilities of shipment and for handling, and stage of manufacture are also important factors in determining the group or class to which a commodity should be assigned.

There is another very essential consideration in classification work. That is the practice of providing exceptions to a classification. As a general rule, such exceptions are either published in a separate tariff or in the classification publication. Their importance cannot be overestimated, as wherever they apply, they assume precedence over the classification itself, and in most cases lower ratings, or alter the application of rules, regulations or carload minimum weights. Individual carriers very often publish such exceptions, as do freight and classification committees. Some States, through their Commissions, also publish exceptions to the interstate classifications, notably, Arkansas and South Carolina.

In the United States, to-day, are three classifications, Official, Southern and Western, that with exceptions, govern the movement of interstate traffic. The Canadian classification is, also, intimately associated with the interstate classifications. In addition, Florida, Georgia, Illinois, Iowa, Mississippi, Nebraska, North Carolina, Texas and Virginia publish classifications, that govern the movement of intrastate traffic, within their respective States.

Aside from those publishing exceptions, previously mentioned, the remaining States have adopted one or the other of the interstate classifications, or have prescribed but few exceptions.

The boundaries of the interstate classification territories are not clearly defined, as through traffic moving between any two of the territories, may be governed by either classification. Roughly, however, they are as follows:

Official Classification Territory.—The Official Classification, with exceptions, governs traffic moving between points in the territory lying east of the Mississippi River and Lake Michigan and north of the Ohio and Potomac Rivers, inclusive of New England. Included within this territory are the New England, Trunk Line and Central Freight Association territories. This classification also governs traffic moving between points in this territory and points in eastern Canada and to points in the St. Paul and Duluth rate territories. Traffic moving between points on the North Atlantic Seaboard and points in the South Atlantic States is governed by the Southern Classification and exceptions, whereas, traffic moving between the Eastern States and Pacific Coast Terminals is governed by the Western Classification and exceptions.

Southern Classification Territory.—The Southern Classification governs interstate traffic moving between points in that territory, lying east of the Mississippi River and south of the southern boundary of Official Classification territory. In addition to the above noted application of

the Southern Classification, on traffic moving between Official territory and the south, the Southern governs the movement of traffic, between points in Missouri River Rate Territory, the State of Missouri and points in the south. Traffic between many points in Kentucky and Virginia and Official Territory are, however, governed by the Official Classification. Contrary to the policy of the Official Classification Committee, exceptions to the Southern Classification are published in the classification itself, and take precedence, only, when specific reference to the exceptions are noted in the tariffs. This, however, does not apply to intrastate traffic within States that have prescribed classifications.

Western Classification Territory.—The Western Classification, and exceptions, govern the movement of interstate traffic between points in the territory lying west of the western boundaries of the Official and Southern Classification Territories and as above indicated. Also, traffic between points in Illinois and those west of the jurisdiction of the Illinois Classification. It also governs all export and import traffic between Pacific Coast Ports and all points in the United States, and between western territory and Gulf Ports. A number of freight committees publish exceptions to the Western Classification, among which are, the Western Trunk Line Committee, the Southwestern Lines, the Trans-Missouri and the Pacific Freight Tariff Bureau. Several States, also, publish ex-

ceptions, such exceptions taking precedence over the classification.

The above, partially defining the application of the interstate classifications, is merely a suggestion of the importance that should be attached to a thorough knowledge of same.

Classification rules and regulations are very important, as they may have a direct bearing upon transportation rates and charges. As experience developed the desirability for such rules, they were applied, with the result that they lack uniformity in the several classifications. This lack of uniformity, frequently necessitates the application of two different sets of rules to one shipment, which, if both sets are not complied with, may increase the charges to be paid by the shipper. The classification does not always prescribe rules or regulations that are to be applied to shipments of commodities. Specific items of classification, exceptions to classification and tariffs, frequently contain definite rules to regulate the handling of traffic. Some of the most important of the classification rules, are as follows: Allowances for dunnage, racks and standards; articles that on account of length require two or more cars; container specifications and packing requirements; carload shipments and minimum weights; less carload and any quantity shipments; description of articles; false billing; false representation; car service and trackage charges; minimum charges; mixed carload shipments; prepayment and guarantee of charges; con-

signed "To Order" shipments; combination of articles; articles not classified; bill of lading conditions; loading cars in excess of carrying capacity; marking freight; penalties and regulations for the transportation of explosives and dangerous articles.

Lack of unanimity between the carriers and possibly, economic conditions, prevented the growth of but one classification. However, concerted action on the part of the carriers, is in a measure, gradually developing uniformity of freight classifications and it is only a matter of time, when one classification will govern the entire movement of interstate traffic. The Interstate Commerce Commission are stimulating progress toward this end.

Rapid advancement in the uniformity of rules, description of articles and carload minimum weights, has manifested itself in the past few years and with beneficial results. A greater problem, however, presents itself in providing uniformity in the number of ratings or classes, as, in this respect, the three interstate classifications are radically different. A more intimate relationship, however, will tend to remove many of the difficulties that now stand in the way of its accomplishment, and will facilitate the attainment of uniformity of freight classification practice.

FREIGHT RATES AND TARIFFS

Chapter III

A freight rate is the established amount of money to be charged, demanded and collected by a carrier for the transportation or handling of a commodity. Rates are usually printed and published on paper sheets, or in pamphlet form, such publications being termed tariffs. Freight rates and tariff publications assume many different characters, depending upon the character of service rendered or to be rendered by the carrier or carriers. Some of these various characters are as follows:

Local.—A "local" freight rate is one that applies on the movement of a commodity, between any two points on the lines of a single carrier. Publications indicating such rates are termed "local" tariffs.

Joint.—A "joint" freight rate is one that combines two or more rates to be applied on the movement of a commodity, from any point located on the lines of one carrier, to any other point located on the lines of another carrier. Shipments moving under "joint" rates are frequently governed by more than one set of rules or regulations. "Joint" tariffs is the term applied to publications indicating rates of this character.

Through.—A "through" rate is one that applies on the movement of a commodity, from any point to any other point, over the lines of two or more carriers, pro-

viding such rate applies through from the point of origin to the point of destination and is governed by but one set of rules or regulations. The term "through" tariff is applied to a publication indicating such rates.

Proportional.—A "proportional" rate is one that is applied on the movement of a commodity, from one point to another point, but that is destined to a point beyond. It is not unusual for a "proportional" rate to be lower than the proper or local delivery rate, or for the application of such a rate to restrict the territory or locality to which a commodity may be destined. Very frequently this character of rate will apply on a commodity moving from an interior point to a port for trans-shipment or for export. "Proportional" tariff is the term applied to the publication containing this character of rates.

Frequently two or more of these different characters of rates are combined in one tariff, the title page indicating same, in event of such combination.

There are many other terms that may be applied to freight rates, for instance, class or commodity, according to their respective traffic divisions; carload or less carload, according to the quantity of the specific shipment; export or import, depending upon the direction of movement, to or from a foreign country, and all-rail, all-water, rail and water, rail and lake, ocean and rail, etc., according to the physical character of the route.

The tariffs usually specify either of the above divisions of traffic or both, the quantity that governs the rate,

the direction of their application and the character of the route. As a general rule, one or more of the above terms are applied in conjunction with any or several of the previously mentioned characters. For example, a tariff may contain local, joint and proportional rates on commodities, in carloads, for export and only apply all-rail, whereas, another would contain local, joint and proportional rates on classes and commodities, and apply water and rail as well as all-rail, between two territories. The fact of class rates being indicated, in the latter instance, signifies its application to less carload as well as carload.

In addition to the character and application of freight rates and the constant fluctuation of their units, judicious exercise of the principles of freight rate construction and practice are of vital importance to the traffic man. One of the first principles to bear in mind is the carriers responsibility and the relation of the rate to such responsibility. A carrier is responsible for the proper maintenance, operation and conduct of its business. It must provide betterments, improvements and extensions to its property. Taxes, interest and other fixed charges must be provided for. An investor is reasonably entitled to a fair return upon his investment and an adequate surplus is necessary in order to protect it during lean periods. Therefore, the carrier's revenue must be reasonably sufficient to protect its responsibilities. For such revenues it is dependent upon rates for the transportation and handling of a sufficient volume of traffic.

The first principle of rate construction applies, more generally, to a structure of rates, but the principles that apply to the individual units are equally as important. These principles must be considered from a variety of angles. Economic, traffic, transportation and operating conditions, being but a few of the considerations. From an economic standpoint, location of an industry to insure natural advantages of both rates and service; competitive conditions and what the traffic can bear, are most important. What the traffic can bear must not be confused with the old principle, "all the traffic will bear." Many commodities of commercial importance have a very insignificant value and can only move under low rates, therefore, a rate that the commodity can bear has a certain significance.

Volume of traffic, encouragement of traffic and traffic density, from the traffic standpoint; distance or mileage, the character of the equipment required, the facilities required to handle a commodity, cost of the service to be rendered, value of the service to be rendered, physical condition of the property as to grades, curves, etc., from the transportation and operating standpoints are essential considerations. Value of the commodity, quantity of specific shipments, liability to damage, the liability incurred by the carrier, bulk and the concentration of weight to increase the load per unit, are all essentially important considerations that contribute to the principles of rate making.

Interstate rates and tariffs are subject to the supervision and oversight of the Interstate Commerce Commission, and the rules and regulations prescribed for the filing and posting of rates and tariffs, bear intimately upon current freight rate practice and tariff construction. Such rates or charges, published and on file with the Commission, are the only legal rates or charges to be observed, and they must be posted at all stations for the convenience of patrons and upon reasonable request, the carrier's agent must furnish rates or other charges. They are not, however, required to furnish tariffs.

Many other factors, coincident with rates and tariffs will be covered in subsequent chapters, particularly those concerned with the legality of rates and charges.

ROUTING

Chapter IV

Routing of freight traffic is the definite determination of a line or number of lines, via which a commodity is to be transported, from its point of origin to its point of destination. In determining a route, two distinct factors present themselves; first, application of the lowest possible rate for the transportation of the commodity; second, the time required in transit, in order to expedite delivery of a shipment.

Routes are of two characters, standard and differential, but a number of different services constitute the two characters. For instance, all-rail, all-water, water and rail, ocean and rail, lake and rail, canal and lake, river, canal and lake and canal and rail, are services that compose the characters of routes. An all-rail service may be termed "standard," if the different all-rail lines that participate in the movement of traffic between any two localities have the same rates for the movement of like traffic. As an example, the application of the rates on like traffic moving all-rail between New York and Chicago is the same via either the New York Central Lines, the Pennsylvania Lines, the Erie and all other lines, therefore, these lines or routes may be characterized as "standard." On the other hand, if any one of these lines were to pro-

vide a different schedule of rates for the movement of traffic between the above points, such line or route would be termed "differential."

The application of rates upon traffic moving via "differential" lines or routes is invariably lower than upon traffic moving via "standard" lines, but as a general rule apply in connection with water services or via a line that requires an exceptionally long haul in comparison with other lines.

Competitive conditions existing between carriers, participating in the movement of traffic within the same territory result in the establishment of "standard" rates on like commodities, but upon traffic destined to other territories, the routes via different gateways frequently change the application of rates. Take, for instance, a shipment moving under a first class rate from Baltimore to Denver, if routed via the Chicago gateway, the application of the rate would be higher than if the same shipment were routed via St. Louis or any other Mississippi River gateway.

The right to designate the route via which a shipment is to move is expressly given the shipper and a carrier is obligated to carry out the shipper's instructions, unless impracticable or unreasonable. If a shipper fails to indicate either a rate or a route upon the bill of lading the carrier must forward the shipment via a route that will apply the lowest rate or combination of rates, except that the carrier would not be obligated to forward the shipment

via a differential route. In event of a shipper designating upon the bill of lading a route that would apply a higher rate than the proper rate via another gateway, but that is inserted in the bill of lading, the carrier is obligated to forward the shipment via the route that would secure the proper rate. This rule also applies in a reverse manner; in fact, the carrier must assume the burden for proper rating and routing. Again, if a shipper fails to either properly rate or route a shipment the carrier must call the shipper's attention to same before forwarding, and have the proper rate and route inserted in the bill of lading.

A carrier, however, in the absence of either rate or route, is not compelled to forward a shipment via an indirect or unreasonable route, even though such route would secure the application of a lower rate.

At times, upon shipments of commodities of great bulk, it is necessary to route in a very indirect manner, as the physical conditions of carrier's properties are not uniform and the variations in the size of tunnels, cuts, etc., and the headroom under bridges, makes their direct or ordinarily proper routing impossible.

Many shippers disregard the application of rates altogether, being concerned only with the promptness of the transportation and delivery of their shipments. In such cases the routing becomes problematical, though exceedingly fast freight services are in operation, physical, traffic and operating conditions may very often prevent the main-

tenance of their schedules. It can be stated, however, that the package car and merchandise services, operated via the fast freight and despatch lines, offer many advantages to the shipper of to-day and such services are in operation by practically all trunk lines and in connection with the lake and water lines.

Under the above conditions, the importance of routing, in connection with the handling of freight traffic, cannot be estimated.

TERMINAL SERVICES AND TRANSIT PRIVILEGES

Chapter V

There are many additional services performed and privileges accorded by carriers that bear an important relation to the transportation and handling of freight traffic, and the charges to be assessed and paid by the shipper for such transportation and handling of his property. The most important of these services and privileges will be defined in order.

ALLOWANCES.—If a shipper renders any service in connection with the transportation or handling of his property, or furnishes any facility or other instrumentality, for the transportation, handling or protection of such property, an allowance for the performance of such service or the furnishing of such facility or instrumentality will be permitted, providing such allowances are reasonable and posted according to the rules and regulations prescribed for the filing and posting of rates and tariffs. Some of these allowances are as follows:

Cartage.—Carriers, especially water carriers, very often make allowances for cartage to shippers that are compelled to haul shipments long distances to the freight stations or piers, such allowances being determined according to the length of haul.

Dunnage.—Allowances in weight per car are sometimes

made for dunnage or temporary blocking, bracing or supporting materials used to secure and protect carload shipments. Such material used must be furnished and installed at the expense of the shipper. A maximum weight to be allowed is established and such allowance must not reflect itself in the carload minimum. The actual weight of the materials used must be specified in the bill of lading or no allowance will be made and if the weight of the material used exceeds the maximum allowed the excess will be charged at the same rate as the lading of the car.

Lighterage.—Shippers and Terminal Companies very frequently own and operate, at their own expense, lighters, car-floats and other floating equipment, which are utilized to transport shipments to the carriers' terminals and piers. Under such circumstances allowances are often made by the railroad or other carrier, the term "Lighterage" being applied to such allowances.

Grain doors, floor racks in refrigerator cars and other facilities are also subject to allowances, if provided at the expense of the shipper and the allowance posted according to law. Allowances, as a general rule, are concessions to be deducted from rates and weights.

Diversion.—A shipper, for a variety of reasons, may wish a particular car that contains his shipment, originally forwarded to one consignee, to be delivered to another party at a different point and so instructs the carrier, as is his right; or a flood, washout or other physical obstacle compels a carrier to forward a shipment via a different

route than that designated by the shipper. Either would be termed diversions. In the instance of the shipper diverting the shipment, an additional charge would be assessed, frequently such charge being based on switching or on mileage, or on a pro rata charge for the additional service rendered by the carrier, termed a diversion charge. On the other hand, if such diversion were at the instance of the carrier, the responsibility would be upon such carrier, providing causes beyond its control, such as floods, washouts, etc., would cause the shipment to be diverted to another route. Any additional charges, in the latter case, would be borne by the shipper. If, for any reason, a shipment originally leaving in a single car and while in transit, is transferred into two cars for the convenience of the carrier or carriers, any additional charges are only to be assessed as for one car.

Fabrication in Transit.—Shipments of iron and steel are frequently stopped in transit at established points in order to undergo other stages of manufacture, termed fabrication, and then shipped to the point of destination upon the basis of the through rate, plus an additional charge for its stoppage in transit. This is termed fabrication in transit and the assessment termed a fabrication in transit charge.

Milling in Transit.—Milling in transit is similar to the above, except that it applies to grain undergoing the process of manufacture into flour, etc., and is termed milling in transit and the charges also termed accordingly.

Reconsignment.—Very often a shipper forwards a shipment to a certain point and while in transit or after arrival at the point of destination, desires to change the route, destination or consignee and to forward same upon the basis of the through rate from the point of origin to the point of final destination. This privilege is extended to shippers by many carriers and is termed "reconsignment." An additional charge is made for the privilege and such charges are required to be published and posted according to the rules applying to other tariffs.

Many other services and privileges are performed and accorded to shippers, many of them applying extra charges and others being performed free or the charges absorbed by the carrier. Car ferry service, feeding and watering live-stock, icing and refrigeration, lighterage, storage, switching, transfer and weighing are some of these. Rules, regulations, charges, absorptions, etc., applying on such services and privileges are all published and posted in tariff form or in other tariffs.

Another important element, coincident with charges assessed by a carrier, but without relation to the performance of service, is demurrage. Demurrage, literally, is the detention of cars by the shipper or consignee. Charges are applied by the carrier for such detention of cars over a prescribed limit of time. The Interstate Commerce Commission Conference Ruling on this subject is important. This rule contains an interpretation and an explanation by the American Railway Association of the National De-

murrage Rules recommended by the Commission and tentatively accepted by them for use throughout the country. They are as follows:

RULE 1.—Cars subject to rules.

Cars loaded with company material for use of and consigned to the railroad in whose possession the cars are held are not subject to demurrage.

Empty cars placed for loading with company material are subject to demurrage, unless the loading is done by the railroad company for which the material is intended and on its track.

(a) Empty cars placed for loading live-stock by shippers are not exempt and should be reported.

Live poultry is not considered as live-stock, and cars so loaded are subject to demurrage.

(c) Empty private cars stored on tracks, switched by carriers, taken for loading, without order or requisition from shipper and without formal assignment by carrier's agent, shall be recorded as placed for loading when actual loading is begun.

Note.—Private cars belonging to an industry which does its own switching, placed upon an interchange track for forwarding, and refused by the carrier's inspector, shall be released from demurrage if withdrawn from the interchange track within twenty-four (24) hours after rejection.

Private cars are not in railroad service—

(a) When loaded and unloaded on the tracks of the owner and not moved over the tracks of a carrier;

(b) When placed by the carrier for loading on the tracks of the owner and refused by the inspector.

RULE 2.—Free time allowed.

(a) When the same car is both unloaded and reloaded, each transaction will be treated as independent of the other.

(b) 1. Applies to cars held on carrier line for disposition. A change of consignee after arrival of car at destination is not a reconsignment under these rules unless a switching movement covered by a tariff is involved. It also includes cars held in transit for reconsignment. (See also (b) 3.)

It also applies to cars held on the carrier line within a switching district consigned to a point on a switching line within such district, which can not be received on account of disability of the consignee. The carrier line must in all cases give notice in writing to the consignee of all cars so held. Time will be computed in accordance with Rule 3 (b), following.

RULE 3.—Computing time.

Note.—The exemption of holidays does not include half holidays.

(b) When orders for cars held for disposition or reconsignment are mailed, such orders will release cars at 7 a. m. of the date orders are received at the station where the freight is held, provided the orders are mailed prior

to the date received, but orders mailed and received on the same date releases cars the following 7 a. m.

RULE 4.—Notification.

When cars are for delivery to public team tracks, and placement is delayed for more than twenty-four (24) hours after notice of arrival is given, a notice of placement must also be given to the consignee, and the free time for unloading computed according to the notice of placement.

RULE 7.—Demurrage Charge.

Charges accruing under these rules must be collected in the same manner and with the same regularity and promptness as other transportation charges.

RULE 8.—Claims.

The exemptions on account of high water or snowdrifts apply only when the point at which car is placed for loading or unloading is inaccessible to the general public by reason of these conditions.

There are a great many conditions that very often result in the demurrage being waived, and almost innumerable illustrations could be given, but each separate case stands on its own merit or demerit, therefore it is impossible to offer them here. Many large industries to-day have their cars, placed for loading or unloading, averaged for the computation of demurrage by the month, and settlements are, as a rule, made on the monthly basis.

BILL OF LADING

Chapter VI

The bill of lading is the carrier's receipt for property delivered to it for transportation, and the instrument under which it contracts to deliver such property to the consignee at the point of destination, in good condition. It is also an evidence of title to the property.

The Act to Regulate Commerce requires an interstate carrier to issue a receipt or bill of lading and to assume liability for loss or damage to shipments, if such loss or damage be caused by it. It further provides that no contract or limitation, express or implied, shall exempt such carrier from the liability imposed by the Act.

The three principal forms of bills of lading are (1) the uniform bill of lading, (2) the government bill of lading, and (3) the standard bill of lading. Being in more general use, the uniform bill will be alone considered. This bill is in two forms: the "straight" bill of lading and the "order" bill of lading. When the former is used the property must be delivered to the original consignee, whereas, property transported under the latter will be delivered to any person designated by the shipper. The "order" bill is a negotiable instrument, but the conditions printed on the back are identical in both forms. Also, space for endorsements is provided on back of "or-

der" bill. On the front both bills are alike, except for the clause on the "order" bill respecting the delivery of the property, this clause being as follows:

The surrender of this Original ORDER Bill of Lading properly indorsed shall be required before the delivery of the property. Inspection of property covered by this bill of lading will not be permitted unless provided by law or unless permission is indorsed on this original bill of lading or given in writing by the shipper.

An order bill of lading has special considerations. The bill serves as a negotiable instrument and is, frequently, attached to a draft drawn on the consignee for the value of the property. This draft must be paid before the consignee can secure the bill of lading and effect delivery of the property. On shipments of Cotton, flour, grain, etc., the order bill of lading is customarily used.

Both forms are uniform in size, being eight and one-half inches wide and eleven inches long, but the straight bill of lading is printed on white paper and the order bill on yellow so as to avoid misunderstanding. If possible, at the time the bill of lading is issued, it should indicate the date, point of origin of the shipment, consignee, destination, the route via which the shipment is to move, car initials and number, the number of packages and their proper description, weight, rate of freight and the total charges. Accurate and complete information in these respects facilitates the handling of a shipment and avoids many needless complications and claims.

A bill of lading issued for a shipment moving on a through rate is termed a through bill of lading, but a shipment moving on a combination of rates may also have a through bill issued. Under the latter circumstance the bill of lading should indicate the separate rates comprising the combination. Import and export traffic may move on a through bill of lading, providing the liability of the inland carrier and the marine risk of the ocean carrier are separated.

Shipments subject to transit or other privileges or services should have same indicated upon the bill of lading. If a shipment that is to be reconsigned has arrived at the point of destination named in the bill of lading, the original bill of lading must be surrendered and a new one issued at the reconsigning point to destination.

Interstate carriers are permitted to execute special contracts for the transportation of property, but subject to the Act to Regulate Commerce and other Acts. Such contracts are used instead of the uniform bill of lading. Live stock, as a general rule, is transported under special contract, the form of contract in general use being uniform. The uniform live stock contract requires the shipper to note upon the face of same the actual value of the stock at the time and place of shipment. The shipper is also responsible for the loading, unloading, watering and feeding of the stock while in the carrier's possession, this generally, necessitating attendants to accompany the stock. Attendants in charge of live stock and carried on freight

trains must absolve the carrier or carriers from all liability for accident or injury whenever leaving the caboose and passing over or along the train or cars. Neither will the carrier furnish light for their accommodation or safety, or be required to stop or start the train or caboose from depots or platforms. Attendants are required to use every precaution to prevent the escape, loss or damage of the stock.

The carrier does not assume liability for death, damage or injury to live stock unless due to negligence on its own part or the part of its employees, for causes beyond its control, or for overloading, crowding, kicking or goring, suffocation, fright, fire from any cause whatever, heat, cold, changes in weather, delay caused by stress of weather or obstruction of track.

The conditions printed on the back of the uniform bill of lading have been a subject of considerable contention as to their validity from the standpoint of law. However, it is not the intention to discuss the legal phases of the bill, except with a brief reference to its dual capacity. On the one hand it vests a right and title in property and on the other hand defines the relative rights of shipper and carrier by a form of contract for the transportation of property. Ownership in the property passes to the consignee when the property is delivered to the carrier if shipped under a straight bill of lading, but under an order bill of lading, ownership does not pass to the consignee if subject to the orders of the shipper.

Conditions, or the form of contract on the back of the bill of lading, define very clearly the carrier's liability and the conditions under which it assumes liability, therefore, we will forego their treatment here.

Before concluding, mention of the Federal Bill of Lading Act passed by Congress and approved by the President, to take effect January 1st, 1917, will not be amiss, as it bears an important relation to commerce and transportation.

FREIGHT CLAIMS

Chapter VII

A freight claim is a demand for reparation for an Act done or omitted to be done properly by a carrier. Matters pertaining to their adjustment have been a constant source of friction between shippers and carriers, due, largely, to misunderstanding of the proper methods for handling such claims, but under existing conditions it is only reasonable to suppose that it is to the interest of a carrier to effect a prompt settlement of legitimate claims, as unreasonable delay would offer no encouragement for a continuance of business relations.

Negligence and the lack of intelligent interpretation of the correct principles of rules, regulations, classifications, rates, routes, tariffs, and the conditions incident to the liability of carriers and the relation of such liability to the law are in a measure responsible for many claims, the proper application of which would have prevented the necessity or the alleged necessity for reparation. Many other factors contribute to the causes that reflect themselves in claims, but which will be treated later, as a more competent understanding of them will be possible after a discussion of the characters or forms which claims assume.

Freight claims comprise two important characters or

forms. One pertaining to total or partial loss or damage of property while in the carrier's possession and the other wherein a carrier receives an amount in excess of the proper charges for rendering its service. The former are termed "loss and damage claims" and the latter "overcharge claims." Another form of claim is in respect to what are termed "undercharges." That is when a carrier receives less than the amount properly due for the service rendered it makes claim upon the shipper for the difference between the amount received and the amount based upon the legal tariff rate. A carrier is compelled by law to collect the amount due, the amount being determined by the tariff rate based upon the actual weight of the shipment and is required to exhaust every legal means to make such collection.

These characters of claims will be considered separately under claims for loss, claims for damage and overcharge claims.

Claims for Loss.—Claims for loss arise from a variety of causes. A shipment may be wholly lost, or it may be totally destroyed in transit or while in the possession of the carrier so as to prevent delivery to the consignee at the point of destination, or it may be damaged to such an extent as to render it worthless. It may be partially lost due to a part of the shipment going astray, or to leakage, or a portion may be broken or totally destroyed.

Claims for Damage.—Damage may be caused in a number of ways. A shipment may be broken but not rendered

useless though to an extent as to reduce its value; it may be bent or indented, it may be stratched, or torn, or punctured by contact with hooks, nails or other projections.

Claims for loss or damage should be made in writing within a period of six months after delivery of the shipment or after a reasonable length of time has elapsed for delivery in case of the shipment being lost. The claim may be filed by either the consignee or consignor, depending upon which held title to the property. It should be supported by the original bill of lading if possible, and if not possible, by an indemnity bond, the bond being for the purpose of protecting the carrier against a later claimant who would present the original bill of lading, in which event the carrier would be compelled to honor the claim a second time, the bill, according to law, being a title right to the ownership of the property, and proof that the property had been delivered to the carrier. It should be accompanied by the paid freight bill, an affidavit of the loss in case of non-delivery or setting forth the damage to the property, and a certified copy of the invoice price or value at the time and place of shipment.

Claims for damage caused by delay are not infrequent. The measure of damage in such cases is determined by the difference in the value of the shipment at the time it should have arrived at destination and the price it brought at the time it had arrived, or if the commodity were intended for use the value of such use during the delay.

Overcharge Claims.—Claims for overcharges are due

to many causes. They may be due to improper rating or routing, improper classification, error in extension, or to overweight, or the charges may be collected from the consignee when in reality it had been a prepaid shipment.

These claims, in addition to the bill of lading, should be supported by the paid freight bill and should indicate the proper rate and the tariff authority for such rate if the overcharge is based upon the rate, but if due to overweight an affidavit as to the correct weight or the invoice indicating same.

Many claims are possible of settlement without difficulty, especially those that are entirely due to error upon the part of the carrier's agent or by intelligent handling by both shipper and the carrier's agent or employee.

In the past few years an active co-operative policy has asserted itself between shippers and carriers, the result of which has been a tendency toward the development of measures for the prevention of claims. This same co-operation applied toward acquiring a competent understanding of the principles involved in the matter of claims and of the liability of the carrier in the transportation of property for the shipper will naturally produce beneficial results and establish a more pacific relation between all carriers and shippers.

FEDERAL AND STATE REGULATION

Chapter VIII

"The Congress of the United States shall have power to regulate Commerce with foreign Nations, and among the Several States, and with the Indian Tribes."

In the above language does Article I, Section 8, of the Constitution of the United States of America delegate to Congress the power to regulate trade and commerce between the several States and with foreign nations.

For many years a necessity for the effective regulation and control of the common carriers engaged in transportation was felt, but it remained for the Forty-ninth Congress to provide the first concrete legislation with this end in view. Therefore, in 1887, the Act to Regulate Commerce was placed upon the Statute books of the United States, this Law creating the Interstate Commerce Commission and delegating to its authority an administrative power and control over the common carriers engaged in the transportation of persons and property between the States.

In 1903 the Elkins Act was passed, thus abolishing rebating and other special privileges, and again in 1906 the Act was further amended by conferring upon the Commission the power to fix the maximum of rates and charges. Suspension of advances in rates came within the jurisdiction of the same body in 1910, this amendment also plac-

ing the burden of proof for justification of such advanced rates upon the carrier.

Enforcement of the Safety Appliance, Hours of Service and Locomotive Boiler Inspection Acts are also under the supervision of the Interstate Commerce Commission. In fact, the Commission to-day exercises a plenary power over the Facilities, Rates, Rules, Regulations and Practices of carriers engaged in the transportation or transmission of persons, property, or message. Power to supervise the increase of Capital Liabilities, effectively, alone remains for Congress to confer upon the Commission, insofar as railways are concerned, in order to possess a complete administrative control.

Regulation of Railways, apparently, was deemed expedient by many of the States prior to the Federal Government's appreciation of the necessity for some method of control. In 1839, but a few years after the first railroad was in operation, Rhode Island created a Board of Railway Commissioners, with extraordinary powers. Other States followed, those in addition to Rhode Island creating Commissions before 1887 being Vermont, New Hampshire, Connecticut, New York, Maine, Tennessee, Ohio, Massachusetts, Minnesota, Illinois, Michigan, Georgia, Virginia, Wisconsin, Missouri, California, Iowa, South Carolina, Kentucky, Alabama and Kansas.

Many of these States and other States which subsequently adopted similar legislation abolished the old Commissions, creating other and like bodies but with

greatly enlarged scope and power, particularly as a great majority included within their supervision and oversight other Public Service Corporations in addition to railways.

The tendency of this legislation and the creation of these Federal and State Commissions for the purpose of regulation of commerce has eventuated in a marked progress toward efficiency in the conduct and operation of Public Utilities. Likewise it has awakened manufacturers and other industrial institutions to the significance and importance of their relations with the transportation interests.

Not only should Attorneys possess knowledge of Commerce Law, its procedure and interpretation with respect to common carriers, but every person identified as an instrument with the movement of property in commerce should at least be aware of their liability and responsibility to such law.

Radical variations of the principles adopted for the regulation of commerce by the several States preclude any possibility of their analysis herein, however a brief survey of the Act to Regulate Commerce follows:

THE ACT TO REGULATE COMMERCE

SECTION 1—**Provisions for Application of the Statute.**—Corporations, persons, etc., engaged in transportation or transmission as common carriers, subject to the provisions of the Act; pipe line companies (except water, artificial and natural gas), telegraph, telephone and cable companies (wire or wireless), express companies, sleeping-car companies, refrigeration lines, fast freight lines, electric railways, railroads and water lines operating in conjunction with rail carriers under a common control, management or arrangement for the continuous carriage of an interstate shipment.

The term "railroad" includes all bridges and ferries used or operated in connection with any railroad, owned, leased and operated lines, and also includes all switches, spurs, side tracks and terminal facilities, as well as depots, yards and grounds used or necessary in the transportation of persons and property.

The term "transportation" includes all cars and other vehicles and other instruments and facilities of shipment or carriage, irrespective of ownership, or of any contract (express or implied) for the use thereof and all other services in connection with the receipt, delivery, elevation, transfer in transit, ventilation, refrigeration, icing, storage, and handling of property transported.

Upon reasonable request carriers are required to establish through routes and reasonable rates applicable to such routes, and adequate facilities for the operation of such routes, also to make reasonable rules and regulations with respect to exchange, interchange and return of cars used therein.

All charges for services rendered or to be rendered in the transportation or transmission of passengers, property or messages or in connection therewith must be just and reasonable. Unjust and unreasonable charges for services or any part of same are prohibited and unlawful.

Common carriers are required to establish, observe and enforce just and reasonable classifications of property for transportation, also rules and regulations as to the manner and form in which it will receive articles for shipment and the method of packing and preparation for shipment that they may conveniently be delivered with safety and dispatch. When proper and expedient and upon reasonable notice to the public, the carrier may modify such rules.

Penalties are provided for the issuance or acceptance of free passes. Some few classes, in addition to employees, are exempt, however, as well as the interchange of same is permitted.

Railroads are forbidden to transport in interstate or foreign commerce any commodity other than lumber or the manufactured products thereof, manufactured, mined or produced by them or under their authority, or in which, directly or indirectly, they have a whole or part interest, except such articles as are necessary and for their use in conducting their business.

Any carrier, upon application of branch lines or lateral line, or of any shipper offering traffic for transportation, shall construct, maintain and operate upon reasonable terms switch connections and private sidings, providing such connection or siding is reasonably

practicable and can be put in with safety and that it will furnish sufficient business to justify the construction and maintenance of same. Also they must furnish cars for the handling of such traffic to the best of their ability and without discrimination in favor of any shipper. Upon the refusal of a carrier to install such physical connection complaint may be made to the Commission as provided in Section 13 and if the Commission, after hearing and investigation, finds that such connection is warranted, it may order the carrier to construct same.

SECTION 2—**Discrimination Defined and Forbidden.**—A common carrier is forbidden, directly or indirectly, by any device to charge, demand or collect a greater or less compensation for any service rendered or to be rendered than it charges, demands or collects from any other person or persons for the performance of a like and contemporaneous service in transporting a like character of traffic under substantially similar circumstances.

SECTION 3—**Undue or Unreasonable Preference or Advantage.**—It is unlawful for a common carrier to make or give any undue preference or advantage to any particular person, firm, corporation, locality or to any particular traffic in any respect or to subject such person, firm, corporation, locality, or particular traffic to undue or unreasonable prejudice or disadvantage.

Facilities for Interchange of Traffic.—The carrier is compelled to afford reasonable, proper and equal facilities for the interchange of traffic between it and other lines for the receiving, forwarding and delivering of passengers and property between its lines and connections. To discriminate in rates or charges between such connecting lines is unlawful. This, however, does not require a carrier to give the use of its track or terminal facilities to another carrier.

SECTION 4—**Long and Short Haul Provision.**—A common carrier cannot charge or receive a greater compensation, in the aggregate, for the transportation of passengers or property, for a shorter than for a longer distance over the same line or route in the same direction, or to charge any greater compensation as a through route than the aggregate of the intermediate rates. This, however, does not authorize a carrier to receive or charge as great a compensation for a shorter as for a longer distance. In special cases, after investigation, the Commission has power to relieve a carrier from the operation of this provision.

Rates Reduced to Meet Water Competition Cannot be Advanced Without Permission.—When a rail carrier shall, in competition with

a water route, reduce rates on any character of freight, between competitive points, it cannot advance such rates unless it shall be found that such proposed advance is due to conditions other than the elimination of water competition.

SECTION 5—**Pooling of Freight or Division of Earnings Forbidden.**—For a carrier to enter into any contract, agreement or combination with another carrier for the pooling of freights of different or competitive railroads or to divide between them the gross or net earnings or any portion of the same, is unlawful.

Railroads Cannot Own Competitive Water Carriers.—For a railroad or other carrier to own, lease, operate, control or have any interest in whatsoever, directly or indirectly, or by directors or stockholders in common, or in any manner, in a water carrier operating via the Panama Canal or elsewhere that is in competition or possibilities of competition for traffic is not lawful. The Interstate Commerce Commission has power to determine questions of fact as to such competition or its possibilities and in such cases the order of the Commission is final.

SECTION 6—**Printing and Posting of Schedules of Rates, Fares and Charges Including Rules, Regulations, Classifications and Terminal and Other Service Charges, Allowances and Privileges.**—Every common carrier subject to the Act is required to print and keep open for public inspection schedules showing all rates, fares and other charges between points on its own line and between points on its own line and points on the line of any other carrier by railroad, pipe line, or by water when a through route and joint rate has been established. In the absence of a joint rate over a through route the several carriers must print and keep open for public inspection the separate rates, charges, etc. Schedules must plainly state the places between which property or passengers will be carried and contain the classification of freight in force, and shall state separately all terminal and other charges, and any rules, regulations, etc., that in any manner would affect or determine such rates or charges or the value of the service rendered. Such schedules or tariffs must be filed with the Interstate Commerce Commission and copies of same must be posted in two conspicuous places in every depot, station or office of the carrier for the convenience of the public.

A common carrier receiving freight in the United States that is to be carried through a foreign country to a point in the United States must file and post tariffs in a like manner. Though, any freight shipped in such manner upon which the through rate has

not been made public as required by the Act, before being admitted to the United States from the foreign country will be subject to customs duties as if of foreign production.

Changes in rates, fares, charges or other conditions in tariff schedules filed and posted according to the Act, except upon thirty days notice to the Commission and the public, must not be made. However, the Commission may in its own discretion and for good cause modify its requirements in this respect.

A joint tariff must specify the several carriers party to the tariff and each party other than the carrier issuing same must file an evidence of acceptance of its provisions. Where such evidence or concurrence has been filed it is not necessary to file copies of the tariff.

Contracts and Agreements to be Filed.—Every interstate carrier must file with the Commission copies of all contracts, agreements or arrangements with other carriers that relate to interstate traffic.

The Commission may prescribe the manner and form of tariff schedules or may change same when found expedient.

Tariffs Must be Published and the Rates or Charges Observed.—No carrier can participate in interstate commerce unless schedules of rates, fares and charges are published in accordance with the Act; nor can any carrier charge, demand or collect a greater or less or different compensation for its service than that published in such schedule or tariff; nor shall a carrier refund or remit in any manner or by any device any portion of the compensation received and specified in the tariff, nor may it extend to any shipper or person any privilege or facility unless specified in the tariff.

In time of war or threatened war upon demand of the President precedence over all other traffic will be given to the transportation of troops and war material and carriers are required to facilitate and expedite military traffic.

The Commission may refuse or reject any tariff that does not give lawful notice of its effective date and such tariff will be void and unlawful.

A carrier refusing or failing to comply with the terms of any regulation or order adopted or promulgated by the Commission under the provisions of this section is liable to a penalty of five hundred dollars for each offense, and twenty-five dollars for each day of its continuance. The fine may be recovered in a civil action brought by the United States.

Written or Misstatement of a Rate.—If a carrier, after a request in writing, refuses or omits to furnish a written statement of

a rate or charge applicable to a described shipment, or misstates in writing the proper rate and the person or company suffers damage in consequence thereof, either by the shipment being misrouted or by entering into a sale or contract wherein the person or company obligates itself to make a shipment at his or its expense, then the carrier is liable to a penalty of two hundred dollars which may be recovered by a civil action brought by the United States.

It is the duty of every carrier to keep posted in every station where freight is received the name of an agent to whom application for information may be made.

Jurisdiction Over Rail and Water Traffic.—The Interstate Commerce Commission has jurisdiction over interstate, rail and water traffic when property is transported from points in the United States to other points in the United States through the Panama Canal or otherwise in the following particulars:

(a) To establish suitable physical connection between the rail carrier and the dock of the water carrier by directing the rail carrier to establish track connection between its rails and the dock if reasonably practicable, safe and the volume of traffic warrants same, and to determine the terms and conditions of construction and operation of the connection or the proportionate construction or operating expense to be borne by either carrier if the dock is owned by a third party.

(b) To establish through routes and joint rates over such rail and water lines and to determine the terms and conditions of their operation in the handling of such traffic.

(c) To establish maximum proportional rates by rail to or from the ports and to determine what traffic and what vessels and what terms or conditions such rates will apply upon.

(d) If a rail carrier enters into arrangements for through carriage with any water carrier operating from a port in the United States to a foreign country, through the Panama Canal or otherwise, the Commission may require the same carrier to enter into similar arrangements with any or all other carriers from the same port to the same foreign country.

Orders of the Commission relating to this section are only made upon formal complaint or in proceeding instituted by the Commission of its own motion and after full hearing.

SECTION 7—**Continuous Carriage.**—It is unlawful for an interstate carrier to enter into any combination, contract or agreement, expressed or implied, to prevent, by change of schedule time, trans-

portation in different cars, or by any other means or device, the transportation of property from being continuous from point of origin to destination; and no break of bulk, stop, or other interruption made by a carrier shall prevent its being treated as one continuous carriage, unless made in good faith for a necessary purpose, and without intent to avoid or interrupt the continuous carriage or to evade any provision of the Act.

SECTION 8—**Liability of Damage for Violation of the Act.**—In case any interstate carrier shall do, cause to be done, or permit to be done any act, matter, or thing that is prohibited by the Act, or shall omit same if required to be done, such carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of the violation and a reasonable counsel fee, the fee to be determined by the court in case of recovery.

SECTION 9—**Election of Court of Damage and Immunity of Witnesses.**—Any party claiming to have been damaged by an interstate carrier may either make complaint to the Interstate Commerce Commission or bring suit for recovery in a United States Court of competent jurisdiction. Both methods cannot be pursued and the party must elect which method of procedure shall be pursued.

In any such action for the recovery of damages the court may compel a witness to appear and testify and compel the production of books, papers and other documents and the claim that such testimony or evidence will incriminate the person testifying will not excuse same, but it shall not be used against the person on the trial of any criminal proceeding.

SECTION 10—**Penalties.**—This section of the Act provides that any common carrier engaged in interstate commerce, any director or officer thereof, or any receiver, lessee, agent, or person acting for or employed by it, who, alone or with any confederate, shall willfully do, permit, or cause to be done, anything in violation of the Act, or who aids therein, or omits to perform any duty required by the Act, or guilty of any infraction of the Act, for which no penalty is otherwise provided, shall be guilty of a misdemeanor and be subject to a fine of $5,000 for each separate offense. If the offense for which any person is convicted is an unlawful discrimination in rates, fares or charges, in addition to the above fine, the person is liable to imprisonment for a term not exceeding two years.

The section further provides that whenever any person either by false billing, false classification, false weighing, or false report of weight, or by any other means or device, permit or obtain trans-

portation of property at less than the legal tariff rate, it constitutes a misdemeanor and is punishable by a fine of not more than $5,000 or imprisonment for a term not exceeding two years, or both, in the option of the court. The shipper as well as the carrier may both be guilty of such falsification and be subject to fine and imprisonment.

SECTION 11—**Interstate Commerce Commissioners.**—This section created the Interstate Commerce Commission. The Commission consists of seven members who are appointed by the President, with the consent of the Senate, for a term of seven years. A Commissioner cannot engage in any other business nor can he have any pecuniary interest in a common carrier. He may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the Commission will not impair the right of the remainder to exercise the full powers of the Commission. No more than four of the Commissioners shall be of the same political party.

SECTION 12—**Authority of the Commission.**—The Commission has authority to inquire into the management of the business of interstate carriers and must keep itself informed as to the manner and method of conduct of such business. It has the right to obtain from any carrier full and complete information necessary in order to conduct its business and carry out the provisions of the Act. Upon request of the Commission any United States district attorney is required to institute and prosecute under the direction of the Attorney-General of the United States, proceedings for the enforcement of the provisions of the Act and for punishment of violations thereof. The Commission is also given power to subpoena witnesses and the production of books, documents, papers, tariffs, contracts, agreements or any other matter relating to the business of a carrier under investigation.

SECTION 13—**Complaints to the Commission.**—This section provides that any person, firm, corporation, company, association, or any mercantile, agricultural or manufacturing society or other organization, or any body politic or municipal organization, or any common carrier, complaining of anything done or omitted to be done by an interstate carrier may apply to the Commission by petition, which shall briefly state the facts. Thereupon, a statement of the complaint must be forwarded to the carrier by the Commission, such carrier being required to satisfy the complaint, or to answer same in writing, within the time specified by the Commission. If the complaint be not satisfied in the time specified, or there appears

to be reasonable ground for investigating same, it is the duty of the Commission to investigate same in a manner and by such means as it deems proper. The Commission shall in like manner and with the same authority and power investigate any complaint forwarded by a State Commission, and shall also have power to initiate at any time an inquiry on its own motion. It also has power to make and enforce orders in the case, or relating to any matter concerning which the inquiry is had excepting orders for the payment of money.

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

SECTION 14—**Reports.**—This section provides that whenever an investigation be had by the Commission, it is its duty to make a report in writing, which shall state conclusions, together with the order in the matter. The report must contain all the essential facts developed by the Commission and its order as to how the conditions are to be changed if a change be required.

SECTION 15—**Powers of the Commission.**—Under the provisions of this section the Commission is given power, after full hearing under an order for investigation, to determine and prescribe just and reasonable rates and classifications to be observed as the maximum charges by a carrier. To determine and prescribe just and reasonable regulations and practices, or to order a carrier to desist from any violations of the Act when found. All such orders of the Commission are to remain in force for two years, unless suspended, modified or set aside by a court of competent jurisdiction. Whenever carriers fail to agree on divisions of joint rates the Commission has power, after a hearing, to prescribe just and reasonable preportions of the joint rate to be received by each carrier party thereto.

Whenever schedules or tariffs stating new rates, fares, or charges, or classifications, or rules, regulations or practices bearing upon such rates and charges are filed with the Commission, it shall have power, either upon complaint or its own initiative and upon due notice to the carrier, to enter upon a hearing concerning the propriety of such rates, etc. And pending such hearing and the decision thereon, the Commission may suspend the operation of such tariffs but not for a longer period than one hundred and twenty days. After hearing upon same the Commission may make such order as it deems proper. However, if such hearing cannot be concluded within the period of suspension, it is empowered to extend the time of suspension for a further period not to exceed six

months. If the rates, etc., are to be increased the burden of proof is upon the carrier to justify such increase.

The Commission also has power to establish reasonable through routes and joint rates and classifications.

The section gives authority to a shipper to designate the route a shipment is to travel and it makes it the duty of the initial carrier to route the shipment as directed and to issue a bill of lading for the transportation of the shipment over its own line and to make delivery to the connecting line whose duty it is to transport such shipment and to make delivery to the next connecting line or to the consignee according to the routing instructions in the bill of lading.

This section makes it unlawful for a carrier or its agent or employee to disclose any information concerning a shipment which would be to the detriment of the shipper and it is unlawful for any person to solicit or knowingly receive any such information, except the information be given in response to a legal process issued under the authority of any State or Federal court, or of an officer or agent seeking information for the prosecution of a person charged with or suspected of crime. A violation of such provision makes a person or corporation guilty of a misdemeanor punishable by a fine not exceeding one thousand dollars.

The Commission also has power to determine the reasonable maximum to be paid for service rendered or the instrumentality furnished by the owner of the property transported.

SECTION 16—**Award of Damages.**—The Commission, under this section, has power to award damages to a complainant, after hearing, for any violation of the Act and can direct the payment of same within a specified time. A carrier failing to comply with such order may be made a defendant in proceedings instituted by the party awarded damages in the United States Circuit Court and the Commission's finding of fact is prima facie evidence of same. Any complaint to the Commission must be made within two years from the time such damage or cause for action accrues and petition for the enforcement of its orders must be filed within one year from the date of order. The Commission may suspend or modify its orders upon notice and in such manner as it may deem proper.

Failure to comply with an order, either knowingly or by neglect, made under the provisions of section fifteen, makes a carrier or its agents liable to a forfeit of five thousand dollars for each offense, such forfeit being recoverable in the name of the United States.

The Commission may engage necessary legal assistants.